

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2002-019459

09/23/2003

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT  
P. M. Espinoza  
Deputy

FILED: \_\_\_\_\_

CAMELOT CAMPUS OF CARE

CATHY L REECE

v.

ARIZONA STATE HEALTH CARE COST  
CONTAINMENT SYSTEM, et al.

LOGAN T JOHNSTON

OTIS SMITH

MINUTE ENTRY

Pursuant to A.R.S §12-910(e) this court may review administrative decisions in special actions and proceedings in which the State is a party:

The court may affirm, reverse, modify or vacate and remand the agency action. The court shall affirm the agency action unless after reviewing the administrative record and supplementing evidence presented at the evidentiary hearing the court concludes that the action is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion.

The scope of review of an agency determination under administrative review places the burden upon the Petitioner to demonstrate that the hearing officer's decision was arbitrary, capricious, or involved an abuse of discretion.<sup>1</sup> The reviewing court may not substitute its own discretion for that exercised by the hearing officer,<sup>2</sup> but must only determine if there is any competent evidence to sustain the decision.<sup>3</sup>

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<sup>1</sup> *Sundown Imports, Inc. v. Ariz. Dept. of Transp.*, 115 Ariz. 428, 431, 565 P.2d 1289, 1292 (App. 1977); *Klomp v. Ariz. Dept. of Economic Security*, 125 Ariz. 556, 611 P.2d 560 (App. 1980).

<sup>2</sup> *Ariz. Dept. of Economic Security v. Lidback*, 26 Ariz. App. 143, 145, 546 P.2d 1152, 1154 (1976).

<sup>3</sup> *Schade v. Arizona State Retirement System*, 109 Ariz. 396, 398, 510 P.2d 42, 44 (1973); *Welsh v. Arizona State Board of Accountancy*, 14 Ariz.App. 432, 484 P.2d 201 (1971).

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This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the administrative agency, exhibits made of record and the Memoranda submitted. After a careful review of the record, I find competent authority and evidence to uphold the decision of the Arizona Health Care Cost Containment System Administration's (hereafter "AHCCCS") Director's decision.

In the case at hand, Plaintiff, Camelot Campus of Care, filed bankruptcy. The bankruptcy trustee sought payment from Defendant, Maricopa Managed Care Systems (hereinafter "MMCS") for services rendered by Plaintiff to patients pursuant to the Arizona Long Term Care program. The trustee submitted claims to MMCS upon discovering that the management company that was supposed to be submitting claims had not done so. MMCS denied the claims, determining that they were untimely submitted. The trustee filed a grievance challenging the denial of the claims. This grievance was also denied on the grounds that it, too, was untimely filed. The trustee appealed MMCS' decision to AHCCCS. The appeal was denied by AHCCCS on the grounds that the initial grievance was untimely filed. The trustee then requested review by an administrative law judge. Following a hearing, the judge issued a recommended decision in favor of the trustee. The Director of AHCCCS rejected the recommended decision of the administrative law judge and denied the trustee's grievance appeal. The trustee then filed a Motion for Rehearing or Review, which the Director of AHCCCS denied. The trustee seeks judicial review of AHCCCS' decision.

The only issue raised by Plaintiff is whether the deadlines for submitting claims and filing grievances in existence in 1999 could be extended for equitable reasons. MMCS and AHCCCS denied the trustee's claims and grievance solely on the grounds that they were not filed within twelve (12) months of the date of the services rendered by Plaintiff, as required by A.R.S. §36-2904(H) and Arizona Administrative Code (hereinafter "AAC") R9-22-804 as they existed in 1999. In 1999, A.R.S. §36-2904(H) provided in relevant part:

The administration [AHCCCS] **shall not pay** claims for system covered services that are initially submitted more than six months after the date of the service for which payment is claimed or that are submitted as clean claims more than twelve months after the date of service for which payment is claimed... Prepaid capitated providers [MMCS] that contract with the administration pursuant to subsection a of this section **are not required** to pay claims for system covered services that are submitted more than six months after the date of the service for which payment is claimed or that are submitted as clean claims more than twelve months after the date of the service for which payment is claimed... a person dissatisfied with the denial of a claim by the ... prepaid capitated provider has twelve months from the date of the service for which payment is claimed to institute a grievance against the... prepaid capitated provider...[emphasis added]

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In 1999, AAC R99-22-804(C)(2)<sup>4</sup>, the rule governing grievances, stated in relevant part:

A written grievance regarding a claim denial shall be filed not more than 12 months after the date of the service for which payment is claimed. [emphasis added]

The trustee admits that he did not submit the claims or file the grievance within the required time limits. Nonetheless, the trustee argues that A.R.S. §36-2904(H) and AAC R9-22-804 are not *absolute* bars to recovering claim monies for services rendered. Interestingly, there is nothing in the administrative law judge's recommendation or in Plaintiff's opening brief, rationalizing or defending the trustee's indisputable failure to timely file the claims or grievance. Quite simply, Plaintiff's position is: We didn't abide by the rules or laws – So what, give us another chance. As co-Defendant, AHCCCS, aptly points out, the case law<sup>5</sup> on which Plaintiff despairingly relies concern circumstances in which limitations on giving *notice of claims* to governmental entities were excused. These cases have nothing to do with the filing of claims for payment or, more specifically, with the untimely filing of claims against the governmental entities.

Historically, Arizona courts have stringently supported and implemented time limitations, such as those regarding the filing of claims, and have set them aside only in rare cases when a governmental entity has affirmatively persuaded a party to refrain from filing a claim, as this is undoubtedly deceptive activity.<sup>6</sup> Absent such fraudulent actions, time limitations are upheld.<sup>7</sup> The laws and rules, as they existed in 1999, were unambiguous: Prepaid capitated providers, such as MMCS, which contracted with the administration, **were not required** to pay claims submitted as clean claims more than twelve months after the date of the service for which payment is claimed. Also, grievances were to be filed within 12 months after of the date of the service for which a payment was claimed. There was no room for discretion by MMCS. Accordingly, I find the AHCCCS' Director's decision to be supported by substantial competent evidence, and that it was not contrary to law, arbitrary, capricious, or is an abuse of discretion.

IT IS ORDERED affirming the decision of the AHCCCS' Director's decision.

IT IS FURTHER ORDERED remanding this case back to the administrative agency for all further proceedings.

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<sup>4</sup> Now AAC R9-22-802(B)(2)(b)(iii).

<sup>5</sup> *Kyles v. Contractors/Engineers Supply, Inc.*, 190 Ariz. 403, 949 P.2d 63, 256 Ariz. Adv. Rep. 39, (App. 1997); *Anson v. American Motors Corp.*, 155 Ariz. 420, 747 P.2d 581, 56 USLW 2380, Prod.Liab.Rep. (CCH) P 11,357 (App. 1987).

<sup>6</sup> *Roer v. Buckeye Irr. Co.*, 167 Ariz. 545, 809 P.2d 970 (App. 1990); *Certainfeed Corp. v. United Pacific Ins. Co.*, 158 Ariz. 273, 762 P.2d 560 (App. 1988); also see *Dunn v. Progress Industries, Inc.*, 153 Ariz. 62, 734 P.2d 604 (App. 1986).

<sup>7</sup> *Hall v. Romero*, 141 Ariz. 120, 685 P.2d 757 (App. 1984).